

CALIFORNIA STATE PERSONNEL BOARD MEETING  
801 Capitol Mall  
Sacramento, California

[www.spb.ca.gov](http://www.spb.ca.gov)

Public Session Location - Room 150  
Closed Session Location - Room 141

FULL BOARD MEETING MINUTES

MAY 2, 2000

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

1. ROLL CALL

BOARD MEMBERS PRESENT:

Florence Bos, President  
Ron Alvarado, Vice President  
Richard Carpenter, Member  
William Elkins, Member  
Sean Harrigan, Member

2. REPORT OF THE EXECUTIVE OFFICER - Walter Vaughn

The Board was advised of the following:

- A. The State Personnel Board's budget is scheduled for consideration in the Assembly on May 10, 2000.

3. REPORT OF THE CHIEF COUNSEL - Elise Rose

The Chief Counsel reported on:

- A. Alexander v. State Personnel Board - Oral argument was presented to the Court of Appeal on April 18, 2000. We have not yet received the decision.

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4. REPORT ON LEGISLATION - Judy Balmain

The Board was advised of the following:

- A. SB 2025 (Burton) - The Board sponsored bill passed out of the Senate Appropriations Committee.

The State Personnel Board voted on the following:

- A. SB 2009 (Solis) as introduced; would force state agencies, including the State Personnel Board to forego their right to appeal a Superior Court decision if that decision was rendered in favor of a state employee and was from an appeal of an adverse action against the employee or a discrimination claim by an employee. Employees would retain their right to appeal any adverse Superior Court decision.

ACTION: Oppose

VOTE: Bos, Alvarado, Carpenter, Elkins, Harrigan -  
Aye.

- B. SB 2027 (Sher) as introduced; this bill would permit a person whose request for public records is denied, to appeal to the Attorney General and obtain a written opinion. Permits that person to sue in court without going to the Attorney General. Includes fines for non-compliance.

ACTION: Neutral

VOTE: Bos, Alvarado, Carpenter, Elkins, Harrigan -  
Aye.

- C. AB 2142 (Keeley) as amended April 4, 2000; this bill would broaden the Fair Employment and Housing definition of Sex to include gender.

ACTION: Neutral

VOTE: Bos, Alvarado, Carpenter, Elkins, Harrigan -  
Aye.

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- D. AB 2222 (Kuehl) as amended April 5, 2000; the bill would amend California's Fair Employment and Housing Act, specific it would clarify the definitions of "mental disability," "physical disability," and "medical condition" it would redefine the phrase "major life activities."

ACTION: Neutral if Amended

VOTE: Bos, Alvarado, Carpenter, Elkins, Harrigan -  
Aye.

- E. AB 2701 (Jackson) as amended April 3, 2000; this bill makes various changes to the statute governing "fitness of duty examinations" revises the Confidentiality of Medical Information Act as it applies to medical examinations. Also includes some clarifying code changes.

ACTION: Neutral if Amended

VOTE: Bos, Alvarado, Carpenter, Elkins, Harrigan -  
Aye.

- F. SB 1419 (Haynes) as amended May 1, 2000; this bill deals with "medical profiling" and no longer impacts State Personnel Board.

ACTION: Change position from Oppose unless Amended  
to: No Position

VOTE: Bos, Alvarado, Carpenter, Elkins, Harrigan -  
Aye.

5. ORAL ARGUMENT

Oral argument in the matter of JAMES BLANCHARD, CASE NO. 99-3198. Appeal from constructive demotion. Department of Corrections.

Persons Participating:

Joel Levinson, Supervising Legal Counsel, California  
Correctional Peace Officers Association (CCPOA)  
representing appellant

Laura D. Baumann, Staff Counsel, representing Department  
of Corrections

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ACTION: Submitted

6. ORAL ARGUMENT

Oral argument in the matter of NICHOLAS LEON, CASE NO. 98-3392. Appeal from 40-calendar day suspension. Department of Corrections.

Persons Participating:

Wendall Llopis, Attorney at Law, representing appellant  
Chuck Maurer, Employee Relations Officer, representing  
Department of Corrections

ACTION: Submitted

7. ORAL ARGUMENT

Oral argument in the matter of SANDRA JOHNSON, CASE NO. 99-1256. Appeal from demotion. Department of Corrections.

ACTION: Withdrawn and rescheduled for June 6, 2000.

8. TECHNICAL TRAINING PROGRAM'S SELECTION ANALYST  
CERTIFICATES PRESENTATION

ACTION: Awards presented

9. HEARING - APPEAL OF THE INTERNATIONAL UNION OF OPERATING  
ENGINEERS (IUOE) FROM THE EXECUTIVE OFFICER'S APPROVAL OF  
CALIFORNIA SCIENCE CENTER'S (CSC) COST-SAVINGS CONTRACT  
FOR EXPOSITION PARK GROUNDS MAINTENANCE PURSUANT TO  
GOVERNMENT CODE § 19130 (a).

Persons Participating:

Adam N. Stern, Attorney at Law, Levy, Stern & Ford,  
representing IUOE  
Dennis Hutcheson, Deputy Director, Administration,  
California Science Center

ACTION: Submitted

10. HEARING - THE DEPARTMENT OF DEVELOPMENTAL SERVICES  
PROPOSES TO ESTABLISH THE SERIES SPECIFICATION FOR  
BEHAVIOR SPECIALIST AND ESTABLISH THE CLASSES OF BEHAVIOR

May 2, 2000

SPECIALIST I AND BEHAVIOR SPECIALIST II EACH WITH A 12-MONTH PROBATIONARY PERIOD AND TO DESIGNATE THEM AS SENSITIVE FOR THE PURPOSE OF PRE-EMPLOYMENT DRUG TESTING.

ACTION: Withdrawn

BOARD ACTIONS

11. STATE PERSONNEL BOARD SUMMARY MINUTES OF APRIL 18, 2000

ACTION: Adopted on May 2, 2000.

VOTE: Bos, Alvarado, Carpenter, Elkins, Harrigan - Aye.

12. ACTION ON SUBMITTED ITEMS

ACTION: See page 14

13. ADMINISTRATIVE LAW JUDGE CASES

On May 2, 2000, the Board adopted the following decisions presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Bos, Alvarado, Carpenter, Elkins, Harrigan - Aye.

PETITIONS GRANTED

JANET G. HOUCHENS, CASE NO. 99-0891

Appeal from 5 percent reduction in salary for 1 month  
Department of Forestry and Fire Protection

ACTION: Submitted

SYLVIA C. SOLIS, CASE NO. 99-0574

Appeal from medical termination  
Department of Motor Vehicles

ACTION: Submitted

REJECTED AND REMANDED DECISION

ROBERT H. TRIMBLE, CASE NO. 97-4115

Appeal from 45 day's suspension  
Department of Corrections

ACTION: Board adopted findings of fact but the penalty is modified to an official reprimand

CHIEF COUNSEL RESOLUTIONS

May 2, 2000

MICHAEL N. LE, CASE NO. 99-0246

Appeal from 10 working day's suspension

Employment Development Department

ACTION: Board denied appellant's request for order to show cause

SPENCER SILVERBACH, CASE NO. 98-0743

Appeal from dismissal

Department of Corrections

ACTION: Board denied appellant's "petition to vacate decision, rescind stipulation and set case for hearing"

WARD SHELTON, CASE NO. 98-0319

MICHAEL CROMBIE, CASE NO. 98-0380

Appeal from 30-calendar day's suspension

Department of Corrections

ACTION: Board approves stipulation for settlement and vacates its decision

#### PROPOSED DECISIONS

STEPHANIE T. LAAM, CASE NO. 00-0340

Appeal from dismissal

Department of Corrections

ACTION: Administrative Law Judge's proposed decision rejected by Board. Board to decide case itself

MIGUEL A. PLATERO, CASE NO. 99-2612

Appeal from 180-calendar day's suspension

Department of Corrections

ACTION: 180-calendar day's suspension modified to 10 working days suspension

MICHAEL RUSHIN, CASE NO. 99-3582

Appeal from 5 percent reduction in Salary for 6 months

Department of Corrections

ACTION: Reduction in salary sustained

ELISA A. MARTINEZ, CASE NO. 99-4030

Petition for accommodation for disability

Department of Food and Agriculture

ACTION: Petition for accommodation for disability denied

ROBERTA ESFANDIARFARD, CASE NO. 99-2792

May 2, 2000

Appeal from dismissal

Department of Mental Health

ACTION: Board adopted findings of fact, but modified  
dismissal to 3-month suspension

MOSES TURAY, CASE NO. 99-3330

Appeal from dismissal

Department of Developmental Services

ACTION: Dismissal revoked

CAMERON LOGGINS, CASE NO. 99-4329

Appeal from 5 percent reduction in Salary for 2 months

Department of General Services

ACTION: Sustaining reduction in salary sustained

BARBARA A. NIOUS, CASE NO. 99-4833

Appeal from 10 percent reduction in Salary for 12 pay  
periods

Department of the Youth Authority

ACTION: Reduction in salary modified to 10 percent for 6  
pay periods

ANGELINE PADILLA, CASE NO. 99-5247

Appeal from official reprimand

Department of Motor Vehicles

ACTION: Official reprimand sustained

LEON H. JOHNSON, CASE NO. 00-0018

Appeal from 60-calendar day's suspension

Department of Corrections

ACTION: Suspension revoked

VICTOR GARCIA, CASE NO. 99-4109

Appeal from official reprimand

Department of Corrections

ACTION: Official reprimand sustained

DIANE KING, CASE NO. 99-5003

Appeal from dismissal

Department of Developmental Services

ACTION: Dismissal modified to 6 months suspension

REGINAL SMITH, CASE NO. 00-0312

Appeal from 30-calendar day's suspension

Department of Corrections

ACTION: Administrative Law Judge's proposed decision  
rejected by Board. Board to decide case itself

MARK LOVINGTON, CASE NO. 99-3202

May 2, 2000

Appeal from 30-calendar day's suspension  
Department of Housing and Community Development  
ACTION: Administrative Law Judge's proposed decision  
rejected by Board. Board to decide case itself

DENNIS VALENTINO, CASE NO. 99-4720  
Appeal from denial of Service Based Salary Increase  
California State University, Long Beach  
ACTION: Determined the appeal dismissed for lack of  
jurisdiction

LYNN MARIE SMITH, CASE NO. 00-0049  
Appeal from dismissal  
Human Services Agency, County of Merced  
ACTION: Dismissal sustained

ROGER VELA, CASE NO. 99-4826  
Appeal from 5 percent reduction in Salary for 6 months  
JAMES MATTINGLY, CASE NO. 99-4823  
Appeal from 5 percent reduction in Salary for 12 months  
Department of Corrections  
ACTION: Reductions in salary revoked

WILLIAM SULLIVAN, CASE NO. 99-3904  
Appeal from dismissal  
Department of Corrections  
ACTION: Administrative Law Judge's proposed decision  
rejected by Board. Board to decide case itself

DEAN W. BEAMAN, CASE NO. 99-4970  
Appeal from 5-days suspension  
Department of Social Services  
ACTION: Suspension sustained

PETITIONS FOR REHEARING

ANNE EDWARDS, CASE NO. 99-1327  
Appeal from dismissal  
Department of General Services  
ACTION: Petition for rehearing filed by respondent  
denied

DAVID NUNEZ, CASE NO. 98-3145  
Appeal from 5 percent reduction in Salary for 6 months  
Department of Corrections  
ACTION: Petition for rehearing filed by appellant  
granted

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DANIEL MONTANEZ, CASE NO. 99-0307  
Appeal from dismissal  
Department of Corrections  
ACTION: Petition for rehearing filed by respondent  
denied

KAREN MABRY, CASE NO. 99-3207  
Appeal from 30 days suspension  
Department of Corrections  
ACTION: Petition for rehearing filed by appellant denied

DONALD J. HEMANS, CASE NO. 99-1273  
Appeal from 60 days suspension  
Department of Corrections  
ACTION: Petition for rehearing filed appellant denied

AMOS NUGENT, CASE NO. 98-0608  
Appeal from demotion  
Board of Equalization  
ACTION: Petition for rehearing filed by appellant denied

CHRISTOPHER RAMOS, CASE NO. 99-0458  
Appeal from 5 percent reduction in Salary for 6 months  
Department of Corrections  
ACTION: Petition for rehearing filed by appellant  
granted

LORITA SEATON, CASE NO. 99-0286  
Appeal from dismissal  
Department of Corrections  
ACTION: Petition for rehearing filed by appellant denied

DON SENNER, CASE NO. 99-0502  
Appeal from dismissal  
Department of Corrections  
ACTION: Petition for rehearing filed by appellant denied

HARVEY N. BILLS, CASE NO. 99-1326  
Appeal from dismissal  
Department of the Youth Authority  
ACTION: Petition for rehearing filed by appellant denied

HARRY C. BARRETT, CASE NO. 99-0234

May 2, 2000

Appeal from 30 working days suspension

Department of Transportation

ACTION: Petition for rehearing filed by appellant denied

14. RESOLUTION RE NOTICE OF GOVERNMENT CODE SECTION 18671.1  
EXTENSION.

ACTION: See pages 15-17

15. MISCELLANEOUS APPEALS DIVISION CASES  
(Discrimination Complaints, Withholds, Voided  
Appointments, Rule 211 Appeals, Petitions for Rehearing)  
On May 2, 2000, the Board adopted the following decisions  
presented by Linda Brooks, Assistant Executive Officer,  
California State Personnel Board.  
VOTE: Bos, Alvarado, Carpenter, Elkins, Harrigan - Aye.

PETITION FOR REHEARING

- A. CHERYL BEARDO, Case No. 00-0412  
Classification: Accounting Officer, (Specialist)  
ACTION: DENIED

RULE 211; REQUEST TO TAKE CIVIL SERVICE EXAMINATION

- B. EDWARD LOPEZ, Case No. 99-3894  
Classification: Construction Supervisor II and  
Construction Inspector I  
ACTION: DENIED

WITHHOLD FROM CERTIFICATION

- C. GUSTAVO MUNOZ, Case No. 99-3648  
Classification: Correctional Officer  
ACTION: GRANTED
- D. ROGER D. HERNANDEZ, Case No. 99-3752  
Classification: Hospital Peace Officer (HPO) I  
ACTION: DENIED

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- E. JEROME JUNIOR, Case No. 99-3573  
Classification: Correctional Officer  
ACTION: DENIED
- F. PATRICIA F. MACK, Case No. 99-4743  
Classification: Parole Agent I, Adult Parole  
ACTION: DENIED
- G. RODOLFO MUNOZ, Case No. 99-3519  
Classification: Hospital Peace Officer (HPO) I  
ACTION: DENIED
- H. RACHELLE RAHIMI, Case No. 99-2956  
Classification: Communications Operator  
ACTION: DENIED
- I. SILVIA P. REYNA, Case No. 99-4914  
Classification: Correctional Officer  
ACTION: DENIED
- J. AMY RUBALCABA-RUDEN, Case No. 99-3042  
Classification: Youth Correctional Officer  
ACTION: DENIED

DISMISSAL CASES

- K. VIRGINIA ARROYO, Case No. 00-0648  
Classification: Psychiatric Technician  
ACTION: DISMISSED
- L. DOUGLAS F. LANGE, Case No. 00-0372  
Classification: Correctional Officer  
ACTION: DISMISSED

16. MEDICAL APPEALS

On May 2, 2000, the Board adopted the following decisions presented by Linda Brooks, Assistant Executive Officer, California State Personnel Board.

VOTE: Bos, Alvarado, Carpenter, Elkins, Harrigan - Aye.

DISMISSAL CASE

- A. GARY ZARATE, Case No. 99-2754  
Classification: Correctional Officer  
ACTION: DISMISSED

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17. EXAMINATION APPEALS

On May 2, 2000, the Board adopted the following decisions presented by Linda Brooks, Assistant Executive Officer, California State Personnel Board.

VOTE: Bos, Alvarado, Carpenter, Elkins, Harrigan - Aye.

DISMISSAL CASE

A. ERIC WITZEL, Case No. 99-4755  
Classification: Correctional Officer  
ACTION: DISMISSED

18. NON-HEARING CALENDAR

On May 2, 2000, the Board adopted item A. This item was presented by Laura Aguilera, Chief, Personnel Resources and Innovations Division, California State Personnel Board.

VOTE: Bos, Alvarado, Carpenter, Elkins, Harrigan - Aye.

A. DOROTHY RICE  
Proposed equity resolution to allow Dorothy Rice to remain in the class of CEA 3.

19. CAREER EXECUTIVE ASSIGNMENT (CEA) CATEGORY ACTIVITY

A. REQUESTS TO ESTABLISH NEW CEA POSITIONS CURRENTLY UNDER CONSIDERATION

(1) DIRECTOR, CALIFORNIA SPECIALIZED TRAINING INSTITUTE  
The Office of Emergency Services proposes to allocate the above position to the CEA category to have responsibility for the full range of activities of the California Specialized Training Institute in the development and presentation of educational programs for local, state and federal government representatives. The department indicates that the position will be at the third organizational level and will report to the Deputy Director, Emergency Operations Planning and Training Division.

(2) ASSISTANT EXECUTIVE DIRECTOR, ADMINISTRATION

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The San Francisco Bay Conservation and Development Commission proposes to allocate the above position to the CEA category to be responsible for the administrative functions of the Commission including budgeting, accounting, personnel, business services, contracts, information technology and direct support to the Commission. The department indicates that the position will be at the second organizational level and will report to the Executive Director.

- (3) DEPUTY DIRECTOR OF ADMINISTRATIVE SERVICES  
The Department of Fair Employment and Housing proposes to allocate the above position to the CEA category to be responsible for establishing and maintaining the administrative internal policies and programs. The department indicates that the position will be at the second organizational level and will report to the Director/Chief Deputy Director.

- (4) AGENCY INFORMATION OFFICERS (VARIOUS DEPARTMENTS)

The Department of Information Technology on behalf of the following agencies: Youth and Adult Correctional Agency, Trade and Commerce Agency, Health and Human Services Agency, California Environmental Protection Agency, Business, Transportation and Housing Agency, Office of Education, State and Consumer Services Agency and Resources Agency, proposes to allocate the above nine positions to the CEA category to ensure that information technology activities of the departments are developed and managed to meet the goals and standards of the agency and statewide enterprise requirements. The department indicates that these positions will be at the second organizational level and will report to the Agency Secretary.

B. EXECUTIVE OFFICER DECISIONS REGARDING REQUESTS TO ESTABLISH NEW CEA POSITIONS

- (1) DEPUTY DIRECTOR, SYSTEMS DIVISION  
The Department of Child Support Services' proposal to allocate the above position to the CEA category has been approved effective April 3, 2000.

- (2) ASSISTANT DIRECTOR, OFFICE OF INFORMATION  
TECHNOLOGY SERVICES

The California Energy's Commission's proposal to allocate the above position to the CEA category has been disapproved effective April 10, 2000.

ACTION: Noted

A D J O U R N M E N T

May 2, 2000

SUBMITTED

1. EQUAL OPPORTUNITY GOALS FOR MINORITIES AND WOMEN  
(Hearing held February 9, 2000).

NO ACTION

2. MICHAEL A. THOMPSON, CASE NO. 98-3739. Appeal from dismissal. Department of Corrections. (Oral argument held March 7, 2000).

ACTION: On May 2, 2000, adopted Board decision modifying dismissal to 18-month suspension and demotion to Supervising Cook I with all back pay and interest and benefits, if any.

VOTE: Bos, Alvarado, Carpenter, Elkins, Harrigan - Aye.

3. ALLEN VIZARD, CASE NO. 99-3708. Appeal from 30-calendar day's suspension. Department of Corrections. (Oral argument held April 4, 2000).

ACTION: On May 2, 2000, adopted Board decision sustaining  
30-calendar day suspension.

VOTE: Bos, Alvarado, Carpenter, Elkins, Harrigan - Aye.

4. THOMAS BENSON, CASE NO. 99-1386. Appeal from dismissal. Department of Corrections. (Oral argument held April 4, 2000).

ACTION: On May 2, 2000, adopted Board decision sustaining dismissal.

VOTE: Bos, Alvarado, Carpenter, Elkins, Harrigan - Aye.

5. GAYLE MCCORMICK, CASE NO. 99-1549. Appeal from demotion. Department of Corrections. (Written argument presented April 4, 2000).

ACTION: On May 2, 2000, adopted Board decision revoking demotion.\*

VOTE: Bos, Alvarado, Carpenter, Elkins, Harrigan - Aye.

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\*Adopted as Precedential Decision(s) #'s 00-05. [NOTE: Precedential Decisions of the State Personnel Board are published and available by subscription from Continuing Education of the Bar (CEB) in Berkeley. To subscribe, call CEB, toll free, at (800) 924-3924.]

May 2, 2000

**NOTICE OF GOVERNMENT CODE § 18671.1 RESOLUTION**

Since Government Code section 18671.1 requires that cases pending

before State Personnel Board Administrative Law Judges (ALJ's) be completed within six months or no later than 90 days after submission of a case, whichever is first, absent the publication of substantial reasons for needing an additional forty-five days, the Board hereby publishes its substantial reasons for the need for the forty-five day extension for some of the cases now pending before it for decision.

An additional forty-five days may be required in cases that require multiple days of hearings, that have been delayed by unusual circumstances, or that involve any delay generated by either party (including, but not limited to, submission of written briefs, requests for settlement conferences, continuances, discovery disputes, pre-hearing motions). In such cases, six months may be inadequate for the ALJ to hear the entire case, prepare a proposed decision containing the detailed factual and legal analysis required by law, and for the State Personnel Board to review the decision and adopt, modify or reject the proposed decision within the time limitations of the statute.

Therefore, at its next meeting, the Board will issue the attached resolution extending the time limitation by 45 days for all cases that meet the above criteria, and that have been before the Board for less than 6 months as of the date of the Board meeting.

May 2, 2000

**GOVERNMENT CODE § 18671.1 RESOLUTION**

**WHEREAS**, Section 18671.1 provides that, absent waiver by the appellant, the time period in which the Board must render its decision on a petition pending before it shall not exceed six months from the date the petition was filed or 90 days from the date of submission; and

**WHEREAS**, Section 18671.1 also provides for an extension of the time limitations by 45 additional days if the Board publishes substantial reasons for the need for the extension in its calendar prior to the conclusion of the six-month period; and

**WHEREAS**, the Agenda for the instant Board meeting included an item titled "Notice of Government Code § 18671.1 Resolution" which sets forth substantial reasons for utilizing that 45-day extension to extend the time to decide particular cases pending before the Board;

**WHEREAS**, there are currently pending before the Board cases that have required multiple days of hearing and/or that have been delayed by unusual circumstances or by acts or omissions of the parties themselves;

**NOW, THEREFORE, BE IT RESOLVED AND ORDERED** that the time limitations set forth in Government Code section 18671.1 are hereby extended an additional 45 days for all cases that have required multiple days of hearing or that have been delayed by acts or omissions of the parties or by unusual circumstances and that have been pending before the Board for less than six months as of the date this resolution is adopted.

\* \* \* \* \*

I hereby certify that the State Personnel Board made and adopted the preceding resolution at its meeting on May 2, 2000.

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WALTER VAUGHN  
Executive Officer  
California State Personnel Board

VOTE: Bos, Alvarado, Carpenter, Elkins, Harrigan - Aye.